IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

BRISTOL-MYERS SQUIB E.R. SQUIBB & SONS L.L ONO PHARMACEUTICAL TASUKU HONJO,	.C.,))))
	Plaintiffs,)
v.))) MBD No. 16-MC-91079-ADB
MERCK & CO., INC. and MERCK SHARP & DOHME CORP.,))
	Defendants.)
v.)
DANA-FARBER CANCER INSTITUTE, INC., GORDON FREEMAN,)))
·	Subpoena Recipients.))

NOTICE OF WITHDRAWAL OF MERCK'S MOTION FOR EXPEDITED HEARING ON MOTION TO MODIFY

Merck & Co., Inc. and Merck Sharp & Dohme Corp. (collectively, "Merck") respectfully submit this notice of withdrawal without prejudice of Merck's Motion for Expedited Hearing ("Motion for Expedited Hearing") on the Motion to Modify Merck's Third-Party Subpoenas to Dana-Farber Cancer Institute, Inc. ("Dana-Farber") and Gordon Freeman ("Freeman") (collectively, "Dana-Farber"). Merck is filing this notice pursuant to an agreement Merck and Dana-Farber reached following Merck's service of the Motion for Expedited Hearing.

More specifically, Merck and Dana-Farber have agreed that Dana-Farber will produce a subset of documents called for by Merck's subpoenas on or before April 8, 2016. Dana-Farber's Motion to Modify will remain pending and, except to the extent the production of the subset of

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documents referenced above moots Dana-Farber's motion with respect to those documents,

Dana-Farber reserves its objections to the timing and scope of Merck's subpoenas. Merck

reserves its right to file an opposition to the Motion to Modify and agrees that if Dana-Farber

wishes to file a reply brief, it may do so within seven (7) days of the filing of Merck's

opposition.

Merck and Dana-Farber have further agreed that, on or after April 25, 2016, if Merck

believes that further production of documents from Dana-Farber is needed and Dana-Farber

objects to such further production, Merck may renew its motion for an expedited hearing. Merck

will also reasonably cooperate with Dana-Farber to have such a motion for expedited hearing and

Dana-Farber's motion to modify heard by Judge Wolf together with Dana-Farber's motion to

compel production from the defendants in Dana-Farber Cancer Institute, Inc. v. Ono

Pharmaceutical Co., Ltd. et al., No. 15-13443-MLW (D. Mass.) (MLW).

WHEREFORE, Merck hereby requests that this Court permit Merck to withdraw without

prejudice its Motion for an Expedited Hearing.

DATED: March 25, 2016

Respectfully submitted,

SIDLEY AUSTIN LLP

/s/ Jack W. Pirozzolo

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CERTIFICATE OF SERVICE

I hereby certify that on March 25, 2016 a true and correct copy of the foregoing document was served on counsel of record via the Court's CM/ECF.

/s/ Jack W. Pirozzolo
Jack W. Pirozzolo